

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 19, 2008

DIVISION THREE

Court convened at 9:30 a.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Z. Heraldez, Deputy Clerk.

Each of the following:

B196856 People v. Connie Maria Orr
B191934 People v. Rafael Diosdado
B202106 DCFS v. Derek P.

Argument waived, cause submitted.

B192944 Indyway Investment
 v.
 Dennis Cooper et al

Merits:

Argued by A. James Artiano for appellant and by Rudy M. A. Cosio and Joyce M. Aiello, Deputy County Counsel, for respondents. Cause submitted.

B196258 The Brown Family Trust et al
 v.
 Wells Fargo Bank N.A.

Merits:

Argued by Neal S. Robb for appellants and by Diana Courteau for respondents. Submission deferred pending filing of additional letter briefs.

DIVISION THREE (continued)

B198817 DBS Bank Ltd Los Angeles Agency
v.
Richard Han

Merits:

Argued by Gregory N. Albright for appellant and by Richard L. Mann and Brian Gurwitz for respondents. Cause submitted.

B193955 Soka Univerity of America
v.
California State Board of Equalization et al

Merits:

Argued by Felix E. Leatherwood, Deputy Attorney General and Albert Ramseyer, Deputy County Counsel for appellants/cross-respondents and by Charles J. Moll for respondent/cross-appellant. Cause submitted.

Court recessed.

Court reconvened at 1:30 p.m.

Present: Klein, P.J., Croskey, J., Kitching, J., Aldrich, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B196623 People v. Ramiro Munguia
B198791 People v. Evangelina Grajeda
B193040 People v. Kelvin Chessman
B196501 People v. Rayina S.
B203436 DCFS v. Jose P.

Argument waived, cause submitted.

DIVISION THREE (continued)

B199390 People
 v.
 Phillip Eugene Hughes

Merits:
Argued by Lynette Moore for appellant and by Steven D. Matthews for respondent. Cause submitted.

B196503 People
 v.
 Marco Antonio Knoth

Merits:
Argued by Deborah Blanchard for appellant and no appearance for respondent. Cause submitted.

B202768 State Farm Fire Casualty Co.
 v.
 Superior Court, Los Angeles County
 (Joshua Wright, r.p.i.)

Merits:
Argued by Mitchell Tilner for petitioners and by John P. Blumber for real party in interest. Cause submitted.

B196916 Yesenia Monroy et al
 v.
 City of Los Angeles et al

Merits:
Argued by Margaret M. Grignon for appellant and by Amy Jo Field Deputy City Attorney for respondents. Cause submitted.

Court adjourned.

DIVISION THREE (continued)

B202388 People (Not for Publication)
v.
Franklin

The judgment is affirmed.

Kitching, J.

We concur: Klein , P.J.
Croskey, J.

B189281	Ortal Real Estate & Management, Inc., et al. v. Kaufman, et al.	(Not for Publication)
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The judgment is reversed with directions to the trial court to (1) vacate its order of August 17, 2005, as to the sustaining without leave to amend of the demurrers to each of the six counts alleged in the third amended complaint against Simon and Kaufman; (2) enter a new order overruling the general and special demurrers to the counts for breach of an oral agreement, breach of the implied covenant of good faith and fair dealing, promissory fraud, constructive trust, and unjust enrichment in the third amended complaint against both defendants, overruling the special demurrer to the usury count against both defendants, and sustaining the general demurrer to the usury count against both defendants with leave to amend; (3) vacate in part its order of June 14, 2005, as to the sustaining without leave to amend of the demurrers to the counts for unfair competition and breach of fiduciary alleged in the second amended complaint against both defendants; and (4) enter a new order overruling the demurrers to the counts for unfair competition and breach of fiduciary duty alleged in the second amended complaint against both defendants. The plaintiffs are entitled to recover their costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B185016 People (Not for Publication)
v.
Andrus

The judgment is affirmed.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

B201953 Los Angeles County, D.C.S. (Not for Publication)
v.
Johanna N.

The juvenile court's order denying mother's section 388 petition is affirmed.

Suzukawa, J.

We concur: Willhite, Acting P.J.
Manella, J.

B197243 Shalant (Not for Publication)
v.
Smith et al.

The judgment (order of dismissal) is affirmed. Respondent(s) to recover costs.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

DIVISION FOUR (continued)

B199072 Barajas (Not for Publication)

v.

County of Los Angeles

The judgment is affirmed. Respondent(s) to recover costs.

Willhite, Acting P.J.

We concur: Manella, J.
 Suzukawa, J.

DIVISION FIVE

B194480 People (Not for Publication)

v.

Henry Tolliver

The judgment is modified to impose: a \$50 penalty assessment pursuant to Penal Code section 1464, subdivision (a); a \$35 penalty assessment pursuant to Government Code section 76000, subdivision (a); a \$10 state surcharge pursuant to Penal Code section 1465.7, subdivision (a); and a \$15 state court construction penalty pursuant to Government Code section 70372, subdivision (a). In addition, a \$20 court security fee pursuant to Penal Code section 1465.8, subdivision (a) (1), is imposed and stayed as to count 1. The judgment is affirmed in all other respects.

Turner, P.J.

We concur: Mosk, J.
 Kriegler, J.

DIVISION SIX

B198282 Pace (Not for Publication)

V.

Kirker et al..

We modify the orders sustaining the demurrers to reflect that a judgment of dismissal was entered and affirm the judgment as modified. Respondents are awarded costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.

Perren, J.

B199345 Marie (Not for Publication)

V.

Kirby

The judgment (order on petitioner's motion to determine if person entitled to distribution of estate) is affirmed. Costs to respondent.

Yegan, J.

We concur: Gilbert, P.J.

Coffee, J.

DIVISION SEVEN

B196902 Alpha First Choice of U.S.A., Inc. (Not for Publication)

V.

Rosenzweig

The judgment is affirmed. Rosensweig shall recover his costs on appeal.

Zelon, J.

We concur: Perluss, P.J.

Woods, J.

DIVISION SEVEN (continued)

B187949 Fotheringham (Not for Publication)

v.

Avery Dennison Corp.

The summary adjudication of the second and fifth causes of action is reversed and the attorney fees award vacated, and the matter is remanded for further proceedings on the second and fifth causes of action and request for punitive damages. In all other respects, the judgment is affirmed. Fotheringham is to recover her costs on appeal.

Zelon, J.

We concur: Perluss, P.J.

 Woods, J.

B191321 Los Angeles Unified School District (Not for Publication)

v.

Commission of Professional Competence of the LAUSD

Kim, Real Party in Interest and Appellant

The judgment is affirmed. The District shall recover its costs on appeal.

Zelon, J.

We concur: Perluss, P.J.

 Woods, J.

DIVISION EIGHT

B190952 Chairez (Not for Publication)

v.

May Department Stores Company et al.

The judgment is affirmed.

Cooper, P.J.

We concur: Rubin, J.
 Egerton, J. (Assigned)

B195879 Casteneda et al., (Not for Publication)

v.

Denny's Corporation et al.,

The order of dismissal is reversed, with directions to enter an order sustaining without leave to amend respondents' demurrer to the second cause of action of the second amended complaint, and overruling the demurrer to the first cause of action. Plaintiffs shall recover costs on appeal.

Cooper, P.J.

We concur: Rubin, J.
 Flier, J.

B201777 Taylor, (Not for Publication)

v.

Pomona Dental Group et al.

The judgment is affirmed. Respondents are to recover their costs on appeal.

Flier, J.

We concur: Rubin, Acting P.J.
 Egerton, J. (Assigned)

DIVISION EIGHT (continued)

B198093 Los Angeles County, D.C.S. (Not for Publication)
v.
Georgetta A.,

The order of February 8, 2007, is reversed and the case is remanded to the juvenile court with directions to order the Department to comply with the notice provisions of the ICWA. If, after proper notice to the Eastern Band of Cherokee Indians, the court finds that the children are Indian children, the juvenile court shall proceed in conformity with all provisions of the ICWA. If, on the other hand, the court finds that the children are not Indian children, the order of February 8, 2007 shall be reinstated.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.

B199297 Viola Rippon et al.,
v.
Debra Bowen, as Secretary of State, etc., et al.,

Filed order modifying opinion. (No change in the judgment)